

[COMMITTEE PRINT]

JUNE 16, 1999

**[As Approved by the Subcommittee on Employer-Employee
Relations on June 16, 1999]**

106TH CONGRESS
1ST SESSION

H. R. 2043

To amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to unrestricted medical advice.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1999

Mrs. KELLY introduced the following bill; which was referred to the
Committee on Education and the Workforce

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 8, 1999]

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide to participants and beneficiaries of group health plans access to unrestricted medical advice.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Patient Right to Unre-*
3 *stricted Medical Advice Act of 1999”.*

4 **SEC. 2. PATIENT ACCESS TO UNRESTRICTED MEDICAL AD-**
5 **VICE.**

6 *(a) IN GENERAL.—Subpart B of part 7 of subtitle B*
7 *of title I of the Employee Retirement Income Security Act*
8 *of 1974 is amended by adding at the end the following new*
9 *section:*

10 **“SEC. 714. PATIENT ACCESS TO UNRESTRICTED MEDICAL**
11 **ADVICE.**

12 *“(a) IN GENERAL.—In the case of any health care pro-*
13 *fessional acting within the lawful scope of practice in the*
14 *course of carrying out a contractual employment arrange-*
15 *ment or other direct contractual arrangement between such*
16 *professional and a group health plan or a health insurance*
17 *issuer offering health insurance coverage in connection with*
18 *a group health plan, the plan or issuer with which such*
19 *contractual employment arrangement or other direct con-*
20 *tractual arrangement is maintained by the professional*
21 *may not impose on such professional under such arrange-*
22 *ment any prohibition or restriction with respect to advice,*
23 *provided to a participant or beneficiary under the plan who*
24 *is a patient, about the health status of the participant or*
25 *beneficiary or the medical care or treatment for the condi-*
26 *tion or disease of the participant or beneficiary, regardless*

1 *of whether benefits for such care or treatment are provided*
2 *under the plan or health insurance coverage offered in con-*
3 *nection with the plan.*

4 “(b) *HEALTH CARE PROFESSIONAL DEFINED.*—*For*
5 *purposes of this section, the term ‘health care professional’*
6 *means a physician (as defined in section 1861(r) of the So-*
7 *cial Security Act) or other health care professional if cov-*
8 *erage for the professional’s services is provided under the*
9 *group health plan for the services of the professional. Such*
10 *term includes a podiatrist, optometrist, chiropractor, psy-*
11 *chologist, dentist, physician assistant, physical or occupa-*
12 *tional therapist and therapy assistant, speech-language pa-*
13 *thologist, audiologist, registered or licensed practical nurse*
14 *(including nurse practitioner, clinical nurse specialist, cer-*
15 *tified registered nurse anesthetist, and certified nurse-mid-*
16 *wife), licensed certified social worker, registered respiratory*
17 *therapist, and certified respiratory therapy technician.*

18 “(c) *RULE OF CONSTRUCTION.*—*Nothing in this sec-*
19 *tion shall be construed to require the sponsor of a group*
20 *health plan or a health insurance issuer offering health in-*
21 *surance coverage in connection with the group health plan*
22 *to engage in any practice that would violate its religious*
23 *beliefs or moral convictions.”.*

24 “(b) *CONFORMING AMENDMENT.*—*The table of contents*
25 *in section 1 of such Act is amended by adding at the end*

1 *of the items relating to subpart B of part 7 of subtitle B*
2 *of title I of such Act the following new item:*

“Sec. 714. Patient access to unrestricted medical advice.”.

3 **SEC. 3. EFFECTIVE DATE AND RELATED RULES.**

4 *(a) IN GENERAL.—The amendments made by this Act*
5 *shall apply with respect to plan years beginning on or after*
6 *January 1 of the second calendar year following the date*
7 *of the enactment of this Act, except that the Secretary of*
8 *Labor may issue regulations before such date under such*
9 *amendments. The Secretary shall first issue regulations nec-*
10 *essary to carry out the amendments made by this Act before*
11 *the effective date thereof.*

12 *(b) LIMITATION ON ENFORCEMENT ACTIONS.—No en-*
13 *forcement action shall be taken, pursuant to the amend-*
14 *ments made by this Act, against a group health plan or*
15 *health insurance issuer with respect to a violation of a re-*
16 *quirement imposed by such amendments before the date of*
17 *issuance of regulations issued in connection with such re-*
18 *quirement, if the plan or issuer has sought to comply in*
19 *good faith with such requirement.*